FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Criminal Application No. 2291/2006

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Shri. R.J. Mirza, Adv. for applicant.
Shri Mandpe, A.P.P. for R-State.

CORAM : B.R. Gavai, J.
DATED : August 11, 2006.

This is an application for grant of bail.

The applicant is arrested in connection with Crime No. 17/2006 for the offences punishable under Section 302 r/w 34 of I.P.C.

The prosecution case is that on 24th February, 2006, the present applicant, accused Prakash and one more accused had poured kerosene on the person of deceased Mandabai and set her on fire. The applicant came to be arrested on the same day.

The learned counsel for the applicant submitted that except dying declaration which is in the nature of circumstantial evidence, there is no material against the applicant. He further submitted that the said dying declaration is a concocted one.

Shri Mandpe, the learned A.P.P. vehemently opposed the application on the ground that the present applicant has been implicated in the dying declaration and hence he is not entitled to be released on bail.

It can be seen that though the applicant is implicated in the dying declaration, he has not been implicated by the eye witness who has also received burn injuries while saving the deceased. So also in the oral dying declarations given to the son and mother-in-law of the deceased, the applicant has not been implicated.

As such, it can be seen that the evidence against the present applicant is in the nature of circumstantial evidence by way of dying declaration of the deceased. The investigation is complete. Chargesheet has already been filed. In this view of the matter, I am inclined to allow the application.

The application is allowed. The applicant is directed to be released on bail in connection with crime no. 17/2006, on his furnishing bail bond in the sum of Rs. 25,000/- with one or more sureties in the like amount. The applicant shall reside outside the area of Amravati Police Commissionerate during the pendency of the trial except as and when required to attend the Court. He shall inform his new address to Nagpuri Gate Police Station so also the Police Station of the area in which he would be

residing. The applicant shall not tamper the prosecution evidence nor shall influence the prosecution witnesses.

The observation made herein are upon prima facie appreciation of the evidence on the record, and the learned trial Court shall not be influenced by the same while deciding the case on merits.

JUDGE

RMP